

Bobby Zarin:

Good morning (afternoon) and welcome to the IRS phone forum on *Tips and Tricks for Completing the Form 990 Information Return*. We received an overwhelming response to this forum, and we're glad to have the opportunity to share this information with so many of you.

You should have received a number of emails from the CE&O mailbox. For today's presentation, you should have:

- an agenda;
- a power point presentation; and
- a marked-up copy of the Form 990

You will need these materials, particularly the Form 990, as we proceed thru today's session. If you did not make copies, the email we sent last week provides a link to the materials on our website.

As you also know from our recent correspondence, the large number of people participating in today's forum prevented us from opening up the session for questions. Instead, we solicited your questions in advance and our two speakers, Joyce Hoover and Russ Felix, incorporated the answers into their presentations. By taking this approach, we were able to not only respond to more questions than we would have if we had opened the lines, but ensure that the questions we address are applicable to the vast majority of the callers.

After today's session, we will send you an evaluation form, asking for your feedback. Please complete the form and share any topics you'd like us to discuss at future phone forums.

Before we begin, I just want to bring your attention to a few items on our website.

If you're interested in more training, click on the Calendar of Events link on the left-hand side of the Charities landing page. Here you will see information on:

- a recent EO webcast on *Political Intervention: Do's and Don't for 501(c)(3) Organizations* on the IRS Tax Talk Today program. You can reach the webcast from this link on this page.
- Also, note that we are offering workshops for small and mid-size EOs in various cities across the country. Registration information is available from this page.
- and information about and registration for the IRS Tax Forums, where Exempt Organizations will be offering seminars and workshops, is also available here.

Last, before I turn the program over to Russ and Joyce, if any of you have not subscribed to the EO Update, our subscription newsletter, I urge you to do so. The link is also available on the left-hand side of the charities page.

Let's begin our program and open the phone lines to our presenters. Russ Felix, who is calling in from Pittsburgh, PA; and Joyce Hoover, calling from Independence, MO.

(Slide #1)
Introduction

Good morning (or afternoon)! Welcome to our telephone forum on Form 990. My name is Russ Felix and I have been with the IRS for 22 years. I am an exempt organizations revenue agent. My co-presenter is Joyce Hoover and she has been with the IRS for 15 years. She is a senior exempt organization's reviewer.

(Slide #2)
Objectives

Our goal with this workshop is to give you an overview of Form 990 – to help you understand why it asks for the information it asks for – and to help you with some of the areas that are the most tricky to complete. This is not a comprehensive study of Form 990; we simply want to give you some general tips on how to reduce error rates, and help you determine the questions you should be asking either yourself or your Form 990 clients. So we will keep our comments fairly general, and we won't cover the form line-by-line.

Our objectives of this workshop are listed in Slide #2 of your handout. The objectives are to:

- State the purposes of Form 990
- List entities that must file Form 990
- Identify what is reported on major sections of Form 990
- List the common errors made on Form 990
- Identify the 2005 Form 990 changes

One other thing before we get going with the nitty-gritty: Although most of what we're going to cover is common to many different types of tax exempt organizations, our primary focus will be on 501(c)(3) organizations since that is the largest population of the exempt organization universe.

Now Joyce is going to go over some of the characteristics of the Form 990, filing requirements, and she will start going over the actual form.

(Slide #3)

Unique Characteristics of Form 990

Thank you Russ.

The Form 990 series of returns are unique in the world of IRS returns for the three reasons listed on slide #3:

- First, the main purpose of the return is not to report and pay taxes, but to provide information on your organization's programs and activities. We call Form 990 an information return, not a tax return.
- Second, almost all of the information reported on the return is open to public inspection. In fact, the Internal Revenue Code requires an organization to permit inspection of certain parts of the return when someone asks.
- The third unique characteristic of the Form 990 is that many state agencies that regulate exempt organizations have chosen to use it to satisfy their filing requirements, rather than come up with their own form. Right now, nearly 40 states require exempt organizations to file Form 990 or Form 990-EZ.

(Slide #4)

Who Must File

So let's start by talking about whom must file. Any organization recognized as exempt from Federal income tax must file an annual information return and any required schedules if it has annual gross receipts greater than \$25,000. Gross receipts, not net receipts. Gross receipts are the total income received, not income less expenses paid out.

Of course, this means that organizations with gross receipts of less than \$25,000 do not have to file. If the organization chooses to file a Form 990 with us even though they are not required to, check the box in Box K on the first page of the return and file a complete return. (This is a change from the prior years. In the past we allowed organizations to simply check Box K and file the return with no financial information. This is no longer the case.) In summary, if you choose to file the return anyway, it must be complete.

So, how does an organization – especially a new one – determine if its gross receipts are under \$25,000?

Slide 4 outlines the rules for determining when an organization's gross receipts are determined to be \$25,000 or less. If the organization is:

- Up to a year old and has received, or donors have pledged to give, \$37,500 or less during its first year,

- Between 1 and 3 years old and averaged \$30,000 or less in gross receipts during each of its first 2 tax years, or
- Three years old or more and averaged \$25,000 or less in gross receipts for the immediately preceding 3 tax years (including the year for which the return would be filed).

So you can see that an organization could have a filing requirement for one year and then not have one the next. It all depends on the average of its gross receipts for a rolling three year period.

(Slide # 5)

Other Organizations Not Required to File

Besides organizations with gross receipts under \$25,000, there are some other types of organizations that do not have to file a Form 990 or 990-EZ. These are listed on slide #5:

- Churches and certain church related organizations; which includes integrated auxiliaries, men/women organizations, and schools below the college level
- State institutions whose income is excluded from gross income under Code section 115
- Pension, profit sharing, and stock bonus trusts under section 401.

Churches and state institutions are exempt as a matter of constitutional law: separation of church and state and separation of federal and state governments.

(Slide #6)

What to File

An organization may file Form 990-EZ if it meets both of the requirements listed on slide #6:

- Its gross receipts during the year were less than \$100,000 and
- Its total assets at the end of the year were less than \$250,000.

(Slide #7)

When to File and Extension

Slide #7 indicates that the Form 990 or 990-EZ is due by the 15th day of the 5th month after the organization's annual accounting period ends. For a calendar year organization, this means that the return is due May 15th. You can get an extension of 90 days to file by submitting Form 8868 on or before the due date. The IRS will generally grant another 90 day extension if the organization files a second Form 8868.

A question was submitted to us that wondered if there is any stigma caused by requesting an extension of time to file the Form 990. There is no stigma caused by asking for an extension to file the Form 990. If the Form 990 cannot be filed on time, then you certainly do want to request an extension. The first 90 day extension is automatic. In order to obtain the 2nd extension, you must show reasonable cause for the additional time requested. You must remember that if the return is filed late (without an extension) or filed after the extension date, then penalties can be charged for late filing.

(Slide #8)
Form 990 E-filing

A couple of words here about e-filing: For tax year 2005 returns due in 2006, the regulations approved last year require organizations with total assets of \$100 million or more to file electronically IF the entity files at least 250 returns during a calendar year. This includes income tax, excise tax, employment tax and information returns. And, beginning in 2007, private foundations and charitable trusts will be required to file Form 990-PF electronically regardless of their asset size, if they file at least 250 returns. These rules are outlined in slide #8.

Now that you have some background on filing requirements, let's take a look at the actual form.

As we go through the form, it would be beneficial to you to have the form in front of you. We are only going to go over the Form 990, not Form 990-EZ. The information we are going to cover is common to both the Form 990 and 990-EZ. As we go through the form, we will refer to the page we are on and the line numbers from Form 990 that we are on. .

Let's start with the basics. If you look at the sample form in front of you, you will notice that we have noted the fact that 36.1% of Forms 990 and 51.7% of Forms 990-EZ are filed with some sort of error on them. For some errors, the IRS must contact the organization for correction or completion. If the organization doesn't correct or complete its return on time, it will be subject to monetary penalties for filing a late or incomplete return. As we go through the form, we will be pointing out the most common errors that are being made on the form. We'll focus on some of these and give you tips on how to avoid making these errors when you file your organization's Form 990 or 990-EZ. We want to help you and us avoid extra time and expense by getting the form completed correctly in the first place.

Just as a side note, the penalties for failing to file the Form 990 and/or filing incorrectly can range from \$20 a day to \$100 a day (depending upon the size of the organization) and penalties can also be imposed on the organization's manager who is responsible for filing.

Form 990 – Page 1

Name and Address – On the top of the return is the name and address information. Some of the most common errors are found here in the easiest section of the form. Make sure you use the organization's legal name – not the name that they are doing business as. If you want to use the doing business as name, put that name in parenthesis. Then double-check that the EIN in box D is correct and make sure you've listed the correct year end for the organization. 8.5% of Forms 990 and 6.2% of Forms 990-EZ include inaccurate EINs and reporting periods.

A question was submitted relating to Box F – Accounting Method – cash or accrual. The organization should generally use the same accounting method on the return as it regularly uses to keep its books and records. To be acceptable for Form 990 (or 990EZ) reporting purposes, the method of accounting used must clearly reflect income. Most states that accept Form 990 (or 990EZ) in place of their own forms require that all amounts be reported based on the accrual method of accounting. So you need to check with your state to determine what their requirements are. However, the support schedule for public charities in Schedule A must be filled out using the cash method.

Box J of that first section asks for the organization type. For example, if the organization is exempt under section 501(c)(3) you will check the “501(c)” box and put a “3” between the parentheses. 2.1% of Forms 990 and 1.9% of Forms 990-EZ fail to indicate the correct subsection.

I mentioned Box K a little earlier. If the organization's gross receipts are normally less than \$25,000 and you still want to file the return, mark Box K and file a complete return.

Now let's look at Part I, where you report the organization's revenues, expenses and changes in net assets or fund balances.

Lines 1 – 12 are where you will report the organization's revenue. Most of these items are self-explanatory. A common area of confusion is the reporting of contributions. When is revenue that the organization receives properly reported as contributions on Line 1, and when does it go somewhere else?

An easy item first: When the organization solicits and receives straight-up, plain and simple contributions, where the giver gets nothing in return, the revenue should be reported on line 1a - direct public support.

If the organization uses a professional fundraiser in these solicitations, you should report on line 1a the gross amount collected by the fundraiser in the charity's name. Do not report the net amount the organization receives from

the fundraiser. Report the gross amount raised in the organization's name. You will report the fundraiser's fee in a couple of other places that we will discuss later.

Line 1a is used to report direct public support. These are amounts received from individuals, corporations, estates, and foundations, or raised by an outside professional fundraiser.

Let me talk briefly about noncash contributions. You should also report the value of noncash contributions on line 1a. This would include all donated items. For example, a car is donated to the organization. Immediately after the organization receives the car, they sell it. The organization includes the FMV of the car as a contribution on line 1a, and will break it out as "non-cash" in item 1d in the parenthesis. As most of you are probably aware, there were new rules that were effective 1/1/05 relating to car donations. Publication 4303, which can be found on our web site: www.irs.gov, describes these new rules and describes how to determine the FMV of the vehicle. The new publication also discusses the written acknowledgment that is now required if the contribution is more than \$500.

Noncash contributions do not include the value of donated services to the organization or items such as the free use of materials, equipment, or facilities. Although you may be required to report these in the financial statements, these are not reported as revenue for IRS reporting purposes. If you wish, you can make note of donated services in Part III (which I will mention again when we get to Part III) and again in the answers to Item 82 in Part VI (which Russ will go over later). Providing this information is optional, however.

Line 1b is used to report indirect public support. Contributions that are received indirectly from the public through solicitation campaigns conducted by federal agencies or similar organizations are reported on line 1b. For example, contributions that are received from the United Way because the reporting organization is an approved United Way organization. (The organization did not directly solicit these contributions from the public, but they are indirectly received from the public.)

Line 1c is used to report government contributions (grants). Grants are equivalent to contributions if the grant encourages the organization to carry on programs or activities that further its exempt purpose.

Now, let's talk about contributions that are received through special events.

Let's say that an organization conducts a fundraising campaign in which a supporter will receive a book with a fair market value of \$25 if he/she makes a contribution of \$100. Let's say the wholesale cost of the book to your organization is \$10. You will report parts of this transaction on five different

lines of the form, because it has elements of a “special event,” reported on Lines 9a – 9c and elements of direct public support, which as we’ve already discussed, is reported on Line 1a.

Without worrying about what goes where just yet, the first thing is to decide how much of this transaction should be considered as a contribution or donation to the organization? Again, the scenario is that the supporter gives \$100 and in return, gets a book with a fair market value of \$25. What’s the “contribution” amount?

In this case, \$75 is the “contribution” - the amount of the payment that exceeds the fair market value of the book. It should be reported on Line 1a. Not the whole payment of \$100, just the contribution part of \$75. It should also be reported on Line 9a, between the parentheses.

But the transaction was for \$100, and so far we’ve only reported \$75 of it. Where does the other \$25 of the payment go, which is the fair market value of the book that the contributor has received?

The fair market value of what is received goes on Line 9a. The wholesale cost of the book (which is \$10) is reported on Line 9b under direct expenses. The difference, \$15, goes on line 9c as the net income from this special fundraising event.

So as I explained, this scenario is reported in 5 different places – Line 1a for the actual amount of the contribution, the contribution amount is reported again in parenthesis on line 9a, the fair market value of the item received by the donor is reported on line 9a, and the direct expenses of the item received is reported on line 9b and the net amount is reported on line 9c.

Let’s move on to membership dues.

Membership payments, reported on Line 3, can also sometimes be difficult to report correctly. If a “member” pays dues mainly to support an organization’s activities and does not receive more than nominal benefits in return, then his or her payment is properly reported as a contribution on Line 1a. The same is true of that portion of a membership payment that exceeds the value of goods or services provided in return. When dues are received that compare reasonably with membership benefits, such as subscriptions to publications, free or reduced-rate admissions to events the organization sponsors, or the use of facilities, these amounts should be reported on line 3.

Dues and memberships should also be distinguished from program service revenues, which are reported on Line 2. If an organization uses “membership fees” as a means of selling admissions, merchandise services, or the use of

facilities to the general public, then the income from these fees is not membership fees; rather, it is program service revenue.

For example, let's say we have a hypothetical EO called "Community Concerts EO": Their purpose is to put on 6 concerts throughout the year. Instead of selling tickets at the door or selling tickets for each concert individually, they sell the tickets as a packet for all of the 6 concerts. They call the buyers of this ticket-package "members". But the revenue from the "memberships" is really for admission to the 6 concerts, so the payments should be reported on Line 2, not Line 3.

In order to determine if it is membership receipts or program service revenue, you must look at all of the facts/circumstances, including what the organization's exempt purpose is. The term members mean an ongoing relationship, not a discrete transaction. Usually the code sections of organizations that actually have membership dues are going to be the 501(c)(5)s – which are the labor unions, 501(c)(6)s – which are the business leagues, and 501(c)(7)s – which are the social clubs. These types of organizations provide benefits to members that have a reasonable relationship to dues.

Let me give you a couple more examples in this area. A jazz organization charges \$50 in membership fees. The benefits to belong to this organization include receiving the newsletter and a 10% discount when purchasing tickets to the concerts. In this situation, the \$50 membership dues are reported on line 3. The ticket sales are reported on line 2.

Let me give you one more example. Assume the same facts as in the jazz organization just mentioned except that the organization also sells memberships at \$100 per year. The additional benefit of being a \$100 member versus a \$50 member is the member's name is listed in the program. In this situation, \$50 is listed on line 3 under membership dues, and the other \$50 is listed on line 1a as a contribution because the benefits that are provided are less than the amount paid over.

Now I am going to move onto expenses, which are lines 13– 17 on page 1.

The tip for this section is to "Complete Part II before filling out Lines 13-17" of Part I so turn to Part II on Page 2. We'll walk through this section and then I'll explain how the totals from this part are carried back to Part I.

Let's take a look at Part II, which is entitled "Statement of Functional Expenses" on page 2.

The numbered expense categories on the left-hand side are pretty much self-explanatory. The total of each type of expense is reported in column A. The tricky part of this section is allocating expenses among the three functions: Program Services, column B, Management and General, column C, and Fundraising, column D.

There was a question submitted to us. The question is whether or not the same rules apply to 501(c)(4) organizations also. The answer to this is yes. The rules for filling out the return are generally the same for every code section. However, some sections of the return only relate to certain code sections. Part II is one of those sections of the return where the 501(c)(3) and 501(c)(4) organizations have additional columns to fill out.

ALL section 501(c)(3) and 501(c)(4) organizations must complete Columns B, C, and D. Columns B, C, and D are optional for all other 501(c) organizations. If you set up the organization's record-keeping system to keep track of how much they spend in these three functional areas, completing this section of the form will be a lot easier.

Here's an example of how this functional allocation works:

Suppose a soup kitchen, exempt under section 501(c)(3), employs a person who spends 50% of her time serving soup, 25% of her time helping to manage the organization's finances, and 25% calling on potential financial supporters of the organization. The organization knows these percentages because it requires all employees to keep a written time log of their activities for a typical month once a year. These time logs are an example of a record-keeping system that helps facilitate accurate completion of Form 990.

The employee's annual salary is \$20,000. Salaries are reported on Line 26, Other salaries and wages. The entire amount of her salary, \$20,000, will go in column A. \$10,000, 50% of her salary, will be reported in column B as program service expense for the time she spends serving soup. \$5,000, 25% of her salary, will go in column C for the time she spends on organizational management, and \$5,000, the other 25% of her salary, will go in column D for the time she spends on fundraising – calling on potential donors.

In addition, let's say that the organization has occupancy expense of \$40,000. 50% of the building is used as the soup kitchen and the remaining 50% of the building is the administrative offices. So, the entire occupancy expense of \$40,000 will go on line 36 in column A. \$20,000, or 50% will be reported in column B. \$10,000, or 25% will be reported in column C and \$10,000, or 25% will be reported in column D.

Remember when I said that if you use a professional fundraiser, to report gross amounts raised by the fundraiser on Line 1a in Part I. Well, Line 30 of Part II is

where you will report the fee that you paid to that fundraiser. Typically, you will show the entire amount paid to the fundraiser in both Columns A and D.

A couple of questions were submitted to us that relate to Line 43 – Other Expenses. One question is whether or not small expenses can be lumped under the category of “miscellaneous” and what is the maximum dollar amount (or percentage) that can be in the category “miscellaneous”. You are allowed to report minor miscellaneous expenses as a single total. The total of the minor miscellaneous expenses grouped together on line 43, may not exceed 5% of the total of all functional expenses (line 44). However, some states that accept the filing of Form 990 or 990EZ in satisfaction of their filing requirements may require that certain types of miscellaneous expenses be itemized regardless of the amount. So you also need to check state requirements.

A question was submitted to us regarding how to determine if the costs of a fundraising event are reported on line 9b or are they reported in Part II in the fundraising column. Fundraising expenses in column D are the total expenses incurred in soliciting contributions, gifts, and grants. For example, report as fundraising expenses all expenses, including allocable overhead costs, incurred in (a) publicizing and conducting fundraising campaigns; (b) soliciting bequests and grants, and (c) preparing and distributing fundraising manuals. When we went through Part I, I went through an example showing what should be reported on line 9a and line 9b. Line 9b is the expenses directly attributable to the goods/services the buyer receives from the special event. All of the other expenses relating to this fundraising event are reported in Part II – column D. Amounts reported on line 9b are not reported in Part II.

The totals for each column are entered on line 44. These totals of columns B, C, and D are then carried back to Lines 13, 14 and 15 of Part I, Page 1.

Line 16, Part I, is for payments your organization makes to an affiliate organization. A typical example would be the portion of dues payments received by a local PTA that is required to be paid to the state PTA it is affiliated with. The local PTA will show the gross amount of dues it receives on Line 3, Part I, and then show the amount it has sent on to the state on Line 16. Do not show the amount sent to the state as an expense item in Part II.

Now let's move to Part III, Statement of Program Service Accomplishments – which is on page 3.

In this section, an organization must state its primary exempt purpose and then describe its achievements for its four largest programs, as measured by the total expenses incurred by each program. Each description should include the program's objective, accomplishments and related expenses. This is the section where you can let the public know about the good work the organization is doing – how many people they've reached and the positive impact they've

had on the community. This is your opportunity to use this section to promote the organization. If you wish you can include in this section the amount of donated services that the organization receives.

All organizations must complete rows a-d, which describes their programs. In addition, 501(c)(3) and 501(c)(4) organizations must also indicate the expenses for each program in the far right column. This is optional for all other organizations.

Again, Form 990 preparation will be a lot quicker if you've set up a record-keeping system that permits you to sum up the amount the organization has spent on each of its major exempt-function activities.

Let's go back to our example earlier where we had an organization that operated a soup kitchen. Let's say that in addition to the soup kitchen, the organization also operates a job training center. These are the organization's two key programs. Its only expenses are employee wages of \$20,000 and occupancy (rent) of \$40,000. For the sake of this example, let's say that \$30,000 was reported as program service expenses on Part II, line 44, column B. Let's say that for our example, the program service expenses are split equally (50/50) between the two programs. On Part III, page 3, you would list soup kitchen on Line A, describe how many people are helped in the soup kitchen, and list \$15,000 of Program Service Expenses. The Job Training Center would be listed on Line B, along with the number of people served, and \$15,000 of Program Service Expenses would be listed on the right hand side.

Whereas Part II, column B provides a total of Program Service expenditures by category, this section requires a total of all categories of expenses by Program. Total Program Service Expenses in Part III (line f) should equal Program Service Expenses in Part II (Line 44, column B).

This section contains one of the 2005 changes made to the form. Under items a through d, if any of the expenses include foreign grants, you must put a check mark in the box.

Now we are going to move onto Part IV and Russ is going to take over.

Thanks, Joyce.

Part IV, which begins on page four of the return, shouldn't be a problem for most of you – it really is no different than the balance sheet of a for-profit entity. Please note that 8.5% of Forms 990 and 11.4% of Forms 990-EZ fail to complete a balance sheet. All organizations must complete all relevant lines in both columns (A) and (B).

A couple of lines worth pointing out here – Line 50, Loans to and Line 63, Loans From officers, directors, trustees and key employees. Because for 501(c)(3) organizations, transactions with insiders can potentially lead to inurement, we want to know the particulars of loans to or from these groups of individuals.

Parts IV-A and IV-B on page five apply only if the organization has an audited financial statement. If the organization doesn't have one, you can enter "n/a" on line "a" of each part.

Part V - In this part, you list the officers, directors, trustees, and key employees of the organization. There are some changes to Part V for 2005. First, there are some questions about the current officers, directors, trustees and key employees in Part V-A. Secondly, there is a new section V-B for former officers, directors, trustees and key employees.

While the information required for Parts V-A and V-B is similar, one important difference is Column B. In Part V-A, Column B requires you to enter the person's title and average hours per week. However, Column B of Part V-B requires a reporting of all loans and advances to the former officer, director, trustee or key employ.

Report in column C any compensation paid to an individual, whether cash or noncash, whether paid currently or deferred and whether includible or not in gross income of the payee. For each individual listed, enter a zero in columns C, D, or E if no compensation, contributions, expenses, and other allowances were paid.

As you know, Form 990 is open to public inspection. This section will be considered incomplete if you enter "Information available upon request" or some similar phrase. Failure to complete this section as specified can subject both the organization and the individual(s) responsible for such failure to penalties for filing an incomplete return.

QUESTIONS

Part V-A Current Officers, Directors, Trustees and Key Employees

Q: Does Part V-A require names of **all** board members, or just board officers? Also, does it require the home address of the board members?

A: In answer to the first question, the names of all board members are required to be listed, not just the board officers. This is true even if they are not compensated. As to the address, the instructions ask for the preferred address at which they wish the IRS to contact them, should it be

necessary to do so. You may put down the filing organization's address if you wish.

Line 75b Relationships among officers, directors, trustees and key employees

Q: Do we look for relationships among all groups or for relationships within each group only? For example, when we look for an officer's relationships, do we consider only other officers, or do we consider an officer's relationship with directors, trustees and key employees as well.

A: Look for relationships among all the groups.

Line 75c Compensation from related organizations

Q: If a person receives no compensation from the filing organization, but does receive \$50,000 or more from related organizations, does the filing organization answer "Yes" to this question and attach a list of the related organizations and amount of compensation paid by each?

A: Yes. There are very detailed instructions for Line 75c. I encourage you to refer to the instructions when you are completing this portion of the return.

Parts V-A and V-B Current/Former Officers, Directors, Trustees and Key Employees

Q: There were a number of questions as to what types of compensation, benefits and expense allowances get included in these sections.

A: Compensation and benefits to be reported are broader than what is reported on either a Form W-2 or Form 1099. For that reason, it's probably a good idea to refer to the instructions, which are quite specific, as you complete columns C, D and E for Parts V-A and V-B. The instructions cast a wide net with respect to what is included in these sections.

Part V-B Former Officers, Directors, Trustees and Key Employees

Q: I don't see any time limit for this section. What if a board member or key employee stepped down from that position and became a non-key employee for the next 20 years? Surely reporting normal, non-key employee compensation and benefits for 20 years for such an individual can't be what the IRS intended.

A: As the questioner noted, there is no time limit specified, either on the form itself or in the instructions and therein lies the answer. Unless and until the instructions change to provide a time limit, continue to report the compensation and benefits of former officers, directors, trustees and key employees on Part V-B.

END OF QUESTIONS

Part VI begins near the bottom of page six. The primary purpose of this section is to ascertain, through a series of questions, whether an organization is participating in activities that can jeopardize its tax-exempt status. For example, questions 78, 81 and 85 deal with unrelated business income, political, and lobbying activities. These activities can either result in taxation of the organization or revocation of an organization's tax-exempt status. But since our focus today is on the 990, I won't be going into a detailed discussion of these activities that can jeopardize tax-exempt status.

Part VI also contains some new questions, Items 91b and 91c, which ask about financial activities and operations in a foreign country.

QUESTION

Part VI Other Information

Q: How should question 91b be completed by a non-US tax-exempt organization?

A: Question 91b asks if the organization has an interest in or authority over a financial account in a foreign country. Since Form 990 is a United States return, a foreign organization which files a Form 990 should answer "Yes" to question 91b and list the name of the foreign country.

END OF QUESTIONS

Parts VII and VIII are on page eight. These sections are similar to Part III. In Part III, you explain how the organization's expenses relate to its exempt purpose. In Parts VII and VIII, you explain how the organization's revenues are related to its exempt purposes. In Columns A and B of Part VII, you will identify any of the organization's income that is unrelated business income. These amounts will also be reported on the Form 990-T you file to report your UBI and pay any tax.

Columns C and D of Part VII are used to report income that, while unrelated to the organization's tax-exempt purpose, is excluded from unrelated business

income tax by one code section or another. Column E is used to report related or exempt function income.

Part VIII of the return is used to explain how any income reported in Column E of Part VII contributes importantly to the accomplishment of the organization's exempt purposes – other than by providing funds for such purposes.

Remember, just because an organization uses the funds derived from an activity to further its exempt purposes, it does not make the activity generating the funds a related activity.

QUESTIONS

Part VII Analysis of Income-Producing Activities

Q: Please address reporting requirements and UBI implications surrounding controlled entities under section 512(b)(13) of the code.

A: Code sections 512(b) (1, 2, 3 and 5) provide that interest and other passive sources of income are **generally** not taxable as UBI for most exempt organizations. One exception to this general rule is 512(b)(13) which provides that interest from controlled organizations, whether tax-exempt or for-profit, is taxable. Control is defined as ownership of over 50% of the stock of a corporation, or over 50% of the profits interest or beneficial interests for other types of entities.

With respect to control, 512(b)(13) references section 318 of the code which deals with constructive ownership, and the rules of attribution do apply. Thus, if Entity A owns 100% of Entity B and Entity B owns 80% of Entity C, Entity A will be deemed to own 80% of Entity C for purposes of 512(b)(13). A calculation must be done to determine how much, if any, of the interest from a controlled organization is taxable. Schedule F of Form 990-T will take you through the calculation. Refer to Pub. 598 (Tax on Unrelated Business Income of Exempt Organizations) for information about unrelated business income.

END OF QUESTIONS

Signature – An officer of the organization must sign the return. For a corporation or association, this officer may be the president, vice president, treasurer, assistant treasurer, chief accounting officer, or tax officer. 17.6% of Forms 990 and 4.7% if Forms 990-EZ are filed without any signature or with an inappropriate signature. This causes a delay in processing, and the organization may be assessed a penalty for filing an incomplete return.

Schedule A

Schedule A only applies to 501(c)(3) organizations. All 501(c)(3) organizations, other than private foundations, that file Form 990 or 990-EZ must also complete and attach Schedule A. This schedule requires information on activities that can jeopardize tax-exempt status as well as information supporting an organization's public charity status.

Part I is used to report the compensation of the five highest paid employees other than officers, directors, and trustees.

You should complete Part I for the five employees with the highest annual compensation over \$50,000. Enter the number of other employees with annual compensation over \$50,000 who are not individually listed in Part I.

You should not include employees that are listed in Part V of Form 990 (List of Officers, Directors, Trustees, Key Employees). In columns (c) through (e), you should show all cash and noncash forms of compensation for each listed employee whether paid currently or deferred.

Part II-A, Compensation of the Five Highest Paid Independent Contractors for Professional Services, is used to report the compensation of the five highest paid independent contractors for professional services. The instructions state that this would generally include attorneys, accountants, auditors, health care professionals, investment advisors, and professional fundraisers.

You should complete Part II for the five highest paid independent contractors who performed personal services of a professional nature for the organization and, in return, received over \$50,000 for the year from the organization. You should also show the number of other independent contractors who received more than \$50,000 for the year but who are not individually listed in Part II.

Part II-B, Compensation of the Five Highest Paid Independent Contractors for Other Services, is another new section for 2005 and is used to report the compensation of the five highest paid independent contractors who provided services that were other than services of a professional nature. This would include any person or firm providing services other than those reported in Part II-A. As in Part II-A, in addition to listing the five highest paid, you also indicate the number of other contractors who received over \$50,000.

Part III on page two of Schedule A is entitled "**Statement About Activities**". It is similar to Part VI (**Other Information**) of the Form 990. This section asks questions about the organization's activities and attempts to identify potential inurement or private benefit transactions. There is one new item in this section, Question 3c, which asks if the organization received a contribution of a qualified real property interest under IRC 170(h). There has been some abuse regarding the value of such donations.

Parts IV (Reason for Non-Private Foundation Status) and IV-A (Support Schedule) ask for information which will show the reason the organization qualifies for non-private foundation status. If box 10, 11, or 12 in Part IV was checked, then the support schedule in Part IV-A must be completed. The support schedule shows revenue sources received during the four preceding years of the year being reported. Item 13 has been modified. IRC 509(a)(3) organizations can be one of three types. Item 13 now requires that you check the box to indicate which type of IRC 509(a)(3) supporting organization the entity is.

QUESTIONS

8: Schedule A, Part IV-A Support Schedule

Q: To what lines of the revenue section on Part I of the return do lines 15-22 of Part IV-A of Schedule A correspond?

A: The lines from the Schedule A support schedule don't always correspond exactly to the Revenue section on Part I of Form 990.

However, as a general rule,

- Line 15 of Schedule A corresponds to Lines 1a, 1b, 1c of Form 990
- Line 16 of Schedule A corresponds to Line 3 of Form 990
- Line 17 of Schedule A corresponds to Line 2 of Form 990
- Line 18 of Schedule A corresponds to Lines 4, 5, 8 of Form 990

9: Schedule A, Part IV-A Support Schedule

Q: What does an organization do that may have most of its funds coming from a private foundation?

A: If a 501(c)(3) entity receives most of its funding from a private foundation, or any other limited number of sources, including individuals or corporations, there is a potential problem. The problem is that such a limited source of support may cause the organization itself to be classified as a private foundation. The primary purpose of the support schedule on Schedule A is to make this determination. If an entity which originally qualified as a public charity because it is publicly-supported gets to the point where it is receiving too much support from a single or limited number of foundations, individuals, or corporations, it may be reclassified as a private foundation.

Remember, if an entity meets the public support test for a four year period, it will generally be treated as publicly-supported for the next two years. Therefore, if you start to get to the point where you are receiving too much

funding from limited sources, you have some time to remedy the situation so you don't get knocked into private foundation status.

END OF QUESTIONS

Part V is for private schools only. It is designed to check compliance with Rev. Proc 75-50. If you are a practitioner who has private school clients or if your organization is a private school, make sure you secure a copy of Rev. Proc. 75-50 so that you comply with its provisions. Failure to do so could result in revocation of the school's tax-exempt status. Indicate "N/A" for Part V if the organization is not a private school.

Parts VI-A and VI-B are for organizations which have conducted lobbying activities. Part VI-A is only to be completed by an eligible organization that elected to be subject to the lobbying expenditure limitations of section 501(h) by filing Form 5768. You must be aware that, if you elect to be covered by section 501(h) by filing a Form 5768, you continue to be covered by section 501(h) for subsequent years until you file another Form 5768 revoking the initial election.

A public charity that makes a valid section 501(h) election may spend up to a certain percentage of its "exempt purpose expenditures" to influence legislation without incurring tax or losing its tax exempt status. Use Part VI-B if the organization conducts lobbying activities but has not made the 501(h) election.

QUESTION

10. Lobbying Activities

Q: If my charity does not need to file a Form 5768, does it need to file Part VI of Schedule A.

A. First off, an organization doesn't either **need** or **not need** to file a Form 5768. It is an election they may make if they think it is to their organization's benefit. If they elect to file a Form 5768 and be covered by code section 501(h), the organization must complete Part VI-A of Schedule A. If the organization has not elected to be covered by 501(h), it must complete Part VI-B. So, you must complete either Part VI-A or VI-B, depending upon whether you made the election or not.

END OF QUESTIONS

Part VII on page six requires information on a 501(c)(3) organization's dealings with non-501(c)(3) tax-exempt organizations.

Schedule B

Before I begin the review of Schedule B, please note that there is typo. If you look near the bottom right side of the face of Schedule B, you will notice that “**ization’s legal name**” is printed in bold print. Please disregard this.

Schedule B is used to provide information on contributions the organization reported on line 1 of Form 990 or 990-EZ. All organizations (not just 501(c)(3) organizations) must attach a completed Schedule B to their Form 990 or 990-EZ, unless they certify that they do not meet the filing requirements of the schedule by checking the proper box in the heading of Form 990 or 990-EZ. (Box M in the top portion of Form 990)

The primary purposes of Schedule B are to:

- Report the names and addresses of the contributors of \$5,000 or more (Part I)
- Describe donated noncash property (Part II) and
- Provide information about donations to 501(c)(7), (8), or(10) organizations (Part III)

Generally, organizations that file Form 990, 990-EZ, or 990-PF and receive \$5,000 or more during the year from any one contributor must file Schedule B, unless they are subject to certain special rules. The special rule that applies to 501(c)(3) organizations is this: Organizations that meet the test of having at least 33.3 % of their support come from the public – as calculated on Line 26f of Part IV-A of Schedule A – complete Schedule B only if they received the **greater of \$5,000 or 2%** of the organization’s total support for the year from any one contributor.

For organizations that file Form 990 or 990-EZ, the names and addresses of contributors are not open to public inspection. All other information, including the amount of contributions, the description of noncash contributions, and any other information provided will be open to public inspection, unless it clearly identifies the contributor.

The best parting advice we can give you is to keep a set of instructions handy while you are preparing the return. They are well-written and should answer most of your questions about completing the return.

Before we let you go, Joyce and Bobby have some final instruction about getting information, assistance and forms. Please turn to Slide 9 of your PowerPoint.

(Joyce)

SLIDE 9 (Contact Information)

I know we've covered a lot of information in short amount of time. Remember that our objective was to give you a brief overview – we want to make sure you know what questions to ask and give you a better idea of why we're asking the questions we ask.

A few years ago, a separate toll-free number dedicated to answering questions regarding tax-exempt organizations was established. You can call 1-877-829-5500 with general questions or for assistance with applications or other exempt organization forms. You can also call this number to verify an organization's tax-exempt status. It's important to know that this number is separate from the 1040 line and that, although this number is not 24 hours, you will in fact be speaking with exempt organizations specialists

In addition, you can visit our Charities & Nonprofits page at www.irs.gov/eo for forms, publications and general information on tax-exempt organizations.

SLIDE 10 (Contact Information)

You can have IRS forms and publications mailed to your home or office by calling our toll-free Forms & Publications number, **1-800-829-3676**. Or, you can download them from our website:

www.irs.gov/formspubs

We would also like to make you aware of a new service that the IRS is offering: EO Update Listserv. You can sign up to receive e-mail updates from the IRS about issues of tax policy, services and available information that impact tax-exempt organizations, such as:

- News releases from the IRS related to exempt organizations;
- new forms, guidance and other publications;
- changes and additions to the **IRS Charities and Nonprofits** Web site; and
- upcoming IRS training and outreach events

When you subscribe, you will receive a confirmation message by e-mail. Remember, you must respond to this email in order to verify your subscription.

CONCLUSION:

We hope today's Form 990 Phone Forum will prove beneficial to you when it comes time to complete the return. Thank you for your interest and attention.

Bobby?

Thank you, Russ and Joyce. That's a lot of information to absorb. Thank you all for joining us today. Please complete the evaluation forms and share your comments (good and bad), and your ideas for future programs, to help us help you comply with the tax law.

Have a good day.